

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

Date: 06/01/2007

Time: 10:00:00 AM

Dept: C-71

Judicial Officer Presiding: Judge Ronald S. Prager

Clerk: Kathleen Sandoval

Bailiff/Court Attendant:

ERM:

Reporter:

Case Init. Date: 06/19/1998

Case Title: JCCP4041 COORDINATION PROCEEDING TOBACCO
LITIGATION

Case No: JCCP4041

Case Category: Civil - Unlimited

Case Type: Misc Complaints - Other

Event Type: Motion Hearing (Civil)

Moving Party: PEOPLE OF THE STATE OF CALIFORNIA EX REL, BILL LOCKYER, PEOPLE OF THE STATE OF
CALIFORNIA EX REL

Causal Document & Date Filed: Motion to Strike, 04/11/2007

Appearances:

Michelle Hickerson for People of the State

Shari Posner for People of the State

Edna Walz for People of the State

Jose Allen for U.s. Smokeless Tobacco

Douglas Flemming 111 for U.S. Smokeless Tobacco

The Court, having taken the above-entitled matter under submission on 05/29/2007 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

RULING AFTER ORAL ARGUMENT: The Court modifies its ruling on plaintiff/cross-defendant People of the State of California's ("People") motion to strike demand for jury trial as follows:

The motion is granted for the reasons stated below. In Hodge v. Super. Ct. (2006) 145 Cal.App.4th 278, 283, the court stated that "[a] jury trial must be granted where the gist of the action is legal, where the action in reality is in reality cognizable at law. Here, the People filed a Complaint for Enforcement of the STMSA and Consent Decree. In the Prayer, the People do not ask for damages. (Code Civ. Proc. §592.) Instead, the People primarily seek specific performance and/or an injunction. Furthermore, the requests for monetary sanctions, civil penalties, and attorney fees and costs do not require that the action be tried to a jury.

The minutes are the order of the Court. No formal order is required.